

1           A     I'm not sure I understand your question. He didn't  
2 want to sell you pagers that were on the frequency you re-  
3 quested or --

4           Q     No. We're talking about cap codes.

5           A     On the cap code you requested.

6           Q     The set of cap codes that you request for a batch of  
7 frequencies that you order, the manufacturer doesn't have to  
8 honor that list, does it?

9           A     I wouldn't buy very many pagers from one who didn't  
10 honor my request.

11          Q     All right. So, the, the manufacturer is more than  
12 -- is, generally speaking, willing to accommodate your request  
13 for cap codes in order to sell you the pagers, isn't that  
14 right?

15          A     Yes, that's correct.

16          Q     And isn't it also true wouldn't you expect that,  
17 that manufacturers would be similarly desirous of, of accommo-  
18 dating cap code requests by other customers as well? Isn't  
19 that true?

20          A     That's correct.

21          Q     Even Capitol. Isn't that true?

22          A     Absolutely.

23          Q     So, the only entity that would know whether  
24 duplicate cap codes are being issues in an area is the manu-  
25 facturer. Isn't that right?

1           A     No, sir.

2           Q     Who else would know?

3           A     The pagers can be reprogrammed in the field very

4 easily, Mr. Hardman.

5           Q     I don't believe that was responsive to the question.

6           A     Ask me the question again then, sir.

7           Q     Well, the original question that, that you disagreed

8 with was whether the manufacturer would be the only entity

9 that would know whether duplicate cap codes were being issued

10 in a particular area, and you, you said that wasn't true,

11 didn't, didn't you?

12          A     State the question one more time? I'm sorry.

13          Q     The, the manufacturer of the pagers would be the

14 only entity that would really know whether a duplicate set of

15 cap codes are being issued in the same general area to differ-

16 ent companies?

17          A     No, I do not agree with that.

18          Q     All right. Now, that --

19          A     Okay.

20          Q     -- that's the way I understand your testimony.

21          A     Okay. Okay.

22          Q     Okay. And then I asked you why -- or I -- what I

23 asked you was who else would know whether duplicate cap codes

24 are being issued in an area?

25          A     The carriers themselves would know.

1 Q You're telling me that if, to take a hypothetical,  
2 both RAM and Capitol were buying pagers from Motorola that RAM  
3 and Capitol would know they're getting duplicate cap codes?

4 A No. That's not what I'm saying. That's not the  
5 question you asked me.

6 Q Well, I, I apologize then, because that is the  
7 question I intended.

8 A Okay.

9 Q Ask again then, please.

10 A All right.

11 Q We're talking about a commercial transaction in  
12 which pagers are being purchased and I, I assume that, that  
13 pagers -- that, that cap codes are initially assigned to  
14 pagers when, when they're manufactured and shipped to the  
15 carrier, isn't that right?

16 A No.

17 Q All right. Then, then explain, explain the identi-  
18 fication process for cap codes on pagers.

19 A Many of our pagers we order unprogrammed and we  
20 decide what cap codes to program in them in the field. This  
21 is a common practice in the industry, as well as ordering  
22 pagers with the cap codes already programmed into.

23 Q Okay. So, the, the, the source of the cap code  
24 could come either from a manufacturer or from the carrier?

25 A Exactly.

1 Q Okay. Is there any central registry where licensees  
2 and manufacturers register cap codes and clear, clear their  
3 assignment for a particular area?

4 A Yes.

5 Q What is the name of that registry?

6 A Network USA.

7 Q Well, now my understanding of Network USA is that it  
8 is a private carrier network paging service.

9 A Yes, sir.

10 Q Are you saying that this has some sort of franchise  
11 to clear cap codes for the entire paging industry?

12 A You asked me if there was any place that had a  
13 clearing house for cap codes.

14 Q No. Mr. Capehart, that was not my question.

15 A I'm, I'm very sorry then. What was your question?

16 Q My question was was there any central -- any entity  
17 that -- where, where a registration cleared a code for the  
18 paging industry?

19 A All frequencies and carriers, RCC and PCP alike?

20 Q What --

21 A In toto?

22 Q Yes.

23 A There is not.

24 Q And, in fact, based on your experience in the  
25 industry, isn't it true that false paging caused by

1 duplication of cap codes in particular areas is a very common  
2 problem?

3 A No, it's not.

4 Q In your experience it's not a common problem?

5 A It's not a common problem.

6 Q All right. Would you say -- is it fair to say, Mr.  
7 Capehart, that you are Mr. Moyer's right-hand man at RAM?

8 A No, it's not fair to say that, sir.

9 Q Would you describe your working relationship with  
10 him as a close and trusted one?

11 A Yes.

12 Q Would you say that you have substantial authority to  
13 supervise and manage the operations at RAM?

14 A No, sir.

15 Q Would you say that you are -- that you have limited  
16 responsibility at RAM to, to supervise and manage?

17 A Yes, I do have limited supervisory capability.

18 Q In that limited role, who do you get your instruc-  
19 tions from?

20 A Mr. Ron Townsend (phonetic sp.).

21 Q And what is his title?

22 A He's Executive Vice President.

23 Q Do you ever get your instructions from Mr. Moyer?

24 A Yes.

25 Q Have you ever gotten instructions regarding the

1 Capitol interference problem from Mr. Moyer?

2 A Concerning anything about the Capitol interference  
3 problem?

4 Q Yes.

5 A Yes.

6 Q Would you say that you were regularly given in-  
7 structions by Mr. Moyer on that?

8 A What do you mean by the term "regularly"?

9 Q Well, more than once a month?

10 A Yes.

11 Q More than once a week?

12 A No.

13 Q Would once a week be roughly fair?

14 A Probably.

15 Q And were these -- these were instructions to do  
16 specific tasks, were they not?

17 A No, sir.

18 Q Were these requests on your part for permission to  
19 do certain acts?

20 A I don't perform testing for RAM Technologies.

21 Q I didn't say testing. I'm, I'm sorry.

22 A You did --

23 Q Tasks.

24 A You said testing.

25 Q Tasks.

1           A     Tasks?

2           MR. JOYCE:  T A S K.

3           MR. CAPEHART:  I, I'm sorry.  So, restate the  
4 question?

5           BY MR. HARDMAN:

6           Q     I'm sorry.  Were -- what I originally asked was  
7 whether the instructions that you were getting from Mr. Moyer  
8 at approximately weekly intervals was to perform specific  
9 tasks?

10          A     Sometimes.  It --

11          MR. JOYCE:  Your Honor, at some point somebody's  
12 going to have to object on relevancy grounds just for the sake  
13 of speed here.  If we could understand where Ken Hardman is  
14 going I would have no objection, but the issue here is  
15 Capitol's interference, not how often Bob and Dale talk to  
16 each other in the office.

17          JUDGE CHACHKIN:  Well, we'll see where we're going.  
18 I'll, I'll -- I'll overrule your objection at this point.  
19 It's preliminary questioning.

20          BY MR. HARDMAN:

21          Q     In the cases where it was not an instruction for Mr.  
22 Moyer to perform a specific task, was it a request by you to  
23 Mr. Moyer for permission to perform a particular task?

24          A     No.  I wouldn't characterize it as that.

25          Q     Well, did you ever conduct any task associated with

1 the Capitol interference without permission of your superiors  
2 or Mr. Moyer?

3 A No.

4 Q So, all of this was done with their knowledge and  
5 consent at least? Is that fair?

6 A Yes.

7 Q And, in fact, wasn't it done pursuant to their  
8 instructions?

9 A Whatever tasks I performed?

10 Q Yes.

11 A Generally speaking, yes.

12 Q All right. Mr. Capehart, you have on the witness  
13 table there a copy of the Direct Case of Capitol Radio  
14 Telephone.

15 A Yes. This object?

16 Q Yes.

17 A Okay.

18 Q And I ask you to go to a document which has been  
19 identified as Exhibit CAP-20, which is behind Tab 22, and  
20 specifically pages 5 to 8 of that document.

21 A Behind Tab 22?

22 Q Right.

23 A Pages 5 through 8? Okay.

24 Q Earlier Mr. Walker identified this as a letter and  
25 attachments -- do you, do you agree that that, that is



1 correct?

2 A That's, that's correct.

3 Q Did you send a copy of this letter to anyone at  
4 Capitol at the time?

5 A I don't recall.

6 Q But it's possible that you did not, is that right?

7 A I, I, I don't recall.

8 Q Turn to page 6, and I refer you to the paragraph at  
9 the top of the page, specifically the -- there, there are two  
10 sentences there and what I would, would like to focus on is  
11 the second sentence beginning, "This information on the lee  
12 frequency..." Do you have that, sir?

13 A Yes.

14 Q That sentence refers to a meeting which I interpret  
15 to mean a meeting involving you and Mr. Shiben and Ms. Foelak  
16 on April 4, 1991, in Washington. Is that, is that correct?

17 A It's the meeting that you were present at, sir.

18 Q Well, I wasn't at a meeting on April 4th.

19 A Then that's a typo.

20 Q So, you really meant to say April 2, 1991, is that  
21 correct?

22 A Is that when you were present in a meeting with me  
23 at the FCC with Mr. Shiben, April 2nd?

24 Q Absolutely.

25 A Then that should say April 2, 1991, sir.

1 Q All right. And you anticipated the, the point that  
2 I was present at the meeting.

3 A Yes, you were.

4 Q Okay. Now, when I was present at the meeting, there  
5 was no information of the sort referred to in that letter that  
6 was disclosed to Ms. Foelak or Mr. Shiben. Are you saying  
7 that this occurred when I was not present?

8 A No, sir. No transfer of information occurred while  
9 you were not present.

10 Q Well, if no transfer of information occurred when I  
11 wasn't present and this information wasn't transferred when I  
12 was present, wouldn't that mean that it wasn't transferred at  
13 all?

14 A I don't know.

15 Q Well, you're making a representation to Mr. Walker  
16 less than a week later that you provided certain of this  
17 information to official -- FCC officials in Washington. Now,  
18 is that true or not?

19 A Evidently I thought that I had and I -- I, I thought  
20 that I had supplied everyone at that meeting with this  
21 information.

22 MR. JOYCE: It -- Your Honor, you know, this issue  
23 was addressed early in, in the meeting. There is no smoking  
24 gun. There's no secret meeting that was held.

25 JUDGE CHACHKIN: Do you --

1 MR. JOYCE: I was there.

2 JUDGE CHACHKIN: -- have an objection, Mr. Joyce, to  
3 the question?

4 MR. JOYCE: No objection to the question.

5 JUDGE CHACHKIN: Fine. Then, then let's continue.

6 MR. JOYCE: That's fine.

7 MR. HARDMAN: Thank you.

8 BY MR. HARDMAN:

9 Q So, at this point you really can't say that that  
10 information was, was in fact transmitted to Mr. Shiben as  
11 stated in your letter, can you?

12 A No, no, I can't. I'm sorry.

13 Q Mr. Capehart, on your right I believe there's a copy  
14 of the Bureau's Direct Case in that white notebook. Is that  
15 right?

16 A Yes.

17 Q Okay. Would you go to document that's been admitted  
18 into evidence as Exhibit PRB No. 3 and turn to page 2? I  
19 believe there are tabs to guide you along.

20 A Which PRB?

21 Q PRB No. 3, which on the first page it should say in  
22 the upper right-hand corner, "Private Radio Bureau Exhibit  
23 No. 3."

24 A Okay.

25 Q And it is dated September 5, 1991. Do you have

1 that?

2 A Um-hum.

3 Q All right. Would you turn to page --

4 COURT REPORTER: Excuse me.

5 MR. HARDMAN: -- 2, please?

6 COURT REPORTER: Say yes or no.

7 JUDGE CHACHKIN: Would you say yes --

8 MR. CAPEHART: Would you state the question again?

9 I don't remember what it was.

10 JUDGE CHACHKIN: The question is the date, the, the  
11 date of September 5, 1991. Your answer was "um-hum." You  
12 have to say yes or no.

13 MR. CAPEHART: State the question again?

14 BY MR. HARDMAN:

15 Q That the page that you were just looking at --

16 A Yes.

17 Q -- is dated September 5, 1991, at the -- in the  
18 upper left-hand corner?

19 A What about the upper left-hand corner?

20 Q There is a date that says September 5, 1991. I'm  
21 only trying to make sure that we're on the same --

22 A Yes. I see it.

23 Q Okay.

24 A Sorry.

25 Q Now, would you turn to page 2. And I will refer you

1 to the second paragraph from the bottom, which makes some  
2 statements about information that you are said to have volun-  
3 teered during the FCC inspection?

4 A Yes, sir.

5 MS. LADEN: Your Honor, I want to object to this.  
6 This goes far beyond the scope of our direct examination. I  
7 don't even see how it's relevant to anything.

8 MR. HARDMAN: This will go to the credibility of the  
9 witness, Your Honor.

10 JUDGE CHACHKIN: Go ahead.

11 MR. HARDMAN: Thank you.

12 BY MR. HARDMAN:

13 Q Now, does this paragraph correctly reflect your  
14 statement to Mr. Walker at the time?

15 MR. JOYCE: Take your time and read the entire  
16 paragraph, Mr. Capehart.

17 MR. CAPEHART: That is not correct.

18 BY MR. HARDMAN:

19 Q So, it's your testimony, then, that -- well, let me  
20 back up. Are we talking about a minor inaccuracy or is there  
21 a major difference between what you said and what is reflected  
22 in this report?

23 MR. JOYCE: I object only to the form of the  
24 question, Your Honor, because Mr. Hardman's interpretation of  
25 minor and major differences may be different from ours. If he

1 | could clarify his question I would withdraw my objection.

2 | BY MR. HARDMAN:

3 | Q Well, let me ask you to make a subjective determi-  
4 | nation on your own criteria. Does this paragraph significant-  
5 | ly misstate conversation that occurred?

6 | A What is significant to you may not be significant to  
7 | me.

8 | Q Well, you can answer and then explain your answer,  
9 | if you wish.

10 | A The last sentence is not correct.

11 | Q The one that says Mr. Shiben -- or, I'm sorry, that,  
12 | "Mr. Capehart alleges that Mr. Shiben, Chief, Land, Mobile,  
13 | and Microwave Division, was aware of it and has approved of  
14 | the use of the time which permits RAM to resume transmitting  
15 | after two minutes whether the frequency is in use or not."?

16 | A That's incorrect.

17 | Q --

18 | A That's not what I stated.

19 | Q It's not what you stated. But did you state that  
20 | someone other than Mr. Shiben was aware of and approved the  
21 | use of this time-out device?

22 | A No, sir.

23 | Q Did you state that Mr. Shiben was not aware of the  
24 | time-out device?

25 | A No, sir.

1 Q Did you state that Mr. Shiben did not approve the  
2 time-out device?

3 A No, sir.

4 Q Did you not state that RAM had a time-out device?

5 A The syntax of that question is confusing me, the  
6 double negative.

7 Q Well, did you state -- did you acknowledge that RAM  
8 did have a time-out device?

9 A Yes, I did.

10 Q I guess the source of the disagreement with this  
11 goes to what Mr. Shiben approved or whether he approved it.  
12 Is that right?

13 A Correct.

14 Q So, is it your testimony now that Mr. Shiben did not  
15 approve the use of that time-out device?

16 A Restate the question?

17 MR. HARDMAN: Your Honor, I'm going to object to  
18 this witness continually looking at his counsel for guidance  
19 on how to answer these questions.

20 MR. JOYCE: I'm looking at you, Ken.

21 MR. CAPEHART: Didn't happen.

22 MR. JOYCE: Relax.

23 MR. CAPEHART: Didn't happen.

24 JUDGE CHACHKIN: All right. Let's make sure it  
25 doesn't happen.

1 MR. JOYCE: The witness is entitled to look at his  
2 counsel.

3 JUDGE CHACHKIN: I understand that, but certainly  
4 counsel is not to give him any guidance. I'm not suggesting  
5 it did happen. I'm just saying it would be improper if it did  
6 happen. Go ahead.

7 MR. JOYCE: I, I would like the record to -- Mr.  
8 Hardman to explain to me what I'm supposed to be doing with my  
9 witness.

10 MR. HARDMAN: Your Honor, since it's -- since this  
11 is on the record, the last several times I've asked a ques-  
12 tion, the first thing the witness has done is look over to his  
13 counsel, as in, you know, what do you want me to do before  
14 answering.

15 MR. CAPEHART: I did not.

16 JUDGE CHACHKIN: All right. Proceed, Mr. Hardman.  
17 Do you have a question pending?

18 MR. HARDMAN: I do have a question pending, but  
19 rather than go back and have it reread, let me just reask it.

20 BY MR. HARDMAN:

21 Q Is it your testimony, is it your testimony now, is  
22 it your testimony now that you told Mr. Walker that Mr. Shiben  
23 did not approve the use of the time-out device?

24 A That is not my testimony.

25 Q Well, I'm starting to get a little puzzled. You



1 | agree that it was Mr. Shiben who was aware of this, would you  
2 | not?

3 |       A       No.

4 |               MS. LADEN: Your Honor, I, I've got to object. I  
5 | don't see how this goes to the credibility of the witness.

6 |               MR. HARDMAN: Well, Your Honor? Your Honor, we've  
7 | got one of two things, either Mr. Walker has misunderstood  
8 | something fairly important that Mr. Capehart said during the  
9 | course of the inspection, in which case it's relevant to judge  
10 | whether the interpretations of conversations in the report,  
11 | you know, are, are true and accurate in material respects, or  
12 | this witness is now denying what he said, which goes to his  
13 | credibility, or if he's not -- you know, if, if he is not  
14 | denying what he said, then he, he told some -- he, he made a  
15 | representation to the inspector that's clearly not true, all  
16 | of which goes to his credibility, and I'm just trying to  
17 | determine what it is.

18 |               MR. JOYCE: Why don't you ask him what he said, Ken,  
19 | instead of spending --

20 |               MR. HARDMAN: Well --

21 |               MR. JOYCE: -- 15 minutes going around the bush on  
22 | this.

23 |               MS. LADEN: Your Honor --

24 |               MR. JOYCE: You never, you never talked to the  
25 | inspector Mr. Walker about this, so now you're trying to, to

1 prove a negative instead of just asking Mr. Capehart  
2 directly --

3 MR. HARDMAN: I --

4 MR. JOYCE: -- what the heck did you say to, to  
5 Mr. --

6 JUDGE CHACHKIN: Let's not have an argument. If you  
7 have an objection you could state it. Let's proceed.

8 MS. LADEN: Your Honor, my --

9 JUDGE CHACHKIN: yes?

10 MS. LADEN: -- objection was -- I -- Mr. Hardman is  
11 right about his attempts to test Mr. Capehart's credibility,  
12 but that was not the question. The question was whether Mr.  
13 Shiben approved or did not approve. That doesn't test any-  
14 one's credibility, and that's why I objected to that question.

15 MR. HARDMAN: If Your -- if that is the question  
16 that Ms. Laden understood, that was not the question I intend-  
17 ed to ask. I'm trying to determine what this witness's testi-  
18 mony is about what was wrong with this report.

19 JUDGE CHACHKIN: But he is yet to answer --

20 MR. HARDMAN: Is it because --

21 JUDGE CHACHKIN: -- that question.

22 MR. HARDMAN: -- is it because that he said Mr.  
23 Shiben knew of it and did not approve of the use of the time-  
24 out device? My understanding of your testimony is no, that  
25 wasn't what you said.

1 MS. LADEN: Your Honor, this is an attempt to get  
2 into the record a ruling by Mr. Shiben on the use of this  
3 timer, Your Honor. If he wants to find out what he told the  
4 engineer, he should ask him what he told the engineer, or he  
5 should have asked the engineer.

6 MR. HARDMAN: Your Honor --

7 MS. LADEN: But to ask what Mr. Shiben approved or  
8 did not approve is an indirect way of getting this irrelevant  
9 testimony into the record.

10 MR. HARDMAN: Your Honor, when I asked Mr. Walker on  
11 cross about this paragraph, he said he stood behind this  
12 statement, that that was accurate. And I specifically asked  
13 him that on cross. All right. Now, we have a witness that's  
14 saying that it's -- it, it -- the characterization is not  
15 accurate.

16 JUDGE CHACHKIN: Well, why don't you just ask --

17 MR. HARDMAN: And I'm not going to --

18 JUDGE CHACHKIN: -- him in what way it's not  
19 accurate --

20 MS. LADEN: Exactly.

21 JUDGE CHACHKIN: -- instead of asking him all these  
22 questions?

23 MR. HARDMAN: All right. Very well.

24 BY MR. HARDMAN:

25 Q Let me ask you this, in what respect is the

1 statement not accurate?

2 A The last sentence of the paragraph is not accurate,  
3 as I stated before.

4 Q Right.

5 JUDGE CHACHKIN: In what way is it not accurate?

6 MR. CAPEHART: It's not accurate in that I didn't  
7 say to Mr. Walker that Mr. Shiben had approved the use of that  
8 timer.

9 BY MR. HARDMAN:

10 Q Well, I thought I asked you awhile ago if the  
11 inaccuracy was that you said Mr. Shiben had approved it?

12 A No. You said is it now your testimony, as if I was  
13 changing it in some way. I have never changed what I said,  
14 and I will tell you what I said.

15 Q Okay. So, it, it was -- what you said -- your  
16 testimony is that what you said at the time is that Mr. Shiben  
17 knew about it. Is that right?

18 A No.

19 Q Are you saying that your -- you --

20 MR. JOYCE: Ask him what he said.

21 BY MR. HARDMAN:

22 Q -- told Mr. Walker at the time that Mr. Shiben did  
23 not know about this?

24 A No.

25 JUDGE CHACHKIN: What did you tell Mr. Walker?

1           MR. CAPEHART: I told Mr. Walker that when we  
2 started experiencing this harmful interference we called Mr.  
3 Shiben to see -- to try and relay this information to him. We  
4 let him listen to the harmful interference. He said I don't  
5 know if I can get Field Operations Bureau down there or not to  
6 check on this harmful interference. Do what you have to do to  
7 keep your system operational. We had to have some way of  
8 transmitting over top of the harmful interference that we were  
9 experiencing.

10           BY MR. HARDMAN:

11           Q     So, you interpreted that as a license -- or an  
12 authorization to establish this time-out device? Is that  
13 right?

14           MS. LADEN: Your Honor, this does not go to the  
15 witness's credibility. As I, as I indicated earlier, it's an  
16 attempt to get into the record the business about the timer  
17 device, which is irrelevant and beyond the scope of our direct  
18 examination.

19           JUDGE CHACHKIN: I'll overrule the objection.

20           MR. HARDMAN: Would you answer the question?

21           MR. JOYCE: Could you repeat the question?

22           MR. CAPEHART: State the question again?

23           BY MR. HARDMAN:

24           Q     All right. You interpreted Mr. Shiben's response to  
25 your phone call -- was this a phone call?

1           A     Yes, it was a phone call.

2           Q     All right. You interpreted Mr. Shibben's response to  
3 your phone call as an authorization to install the time-out  
4 device? Is that right?

5           A     We didn't discuss that with Mr. Shibben, what we were  
6 going to do.

7           Q     I'm asking your interpretation.

8           A     Yes. We had to have some way of transmitting over  
9 the harmful interference that we were experiencing.

10          Q     And you interpreted Mr. Shibben's conversation with  
11 you --

12               MR. JOYCE: Asked and answered.

13               MR. HARDMAN: -- as an authorization -- he didn't  
14 answer it.

15               MR. JOYCE: He did answer it.

16               JUDGE CHACHKIN: Please let the -- go ahead, Mr.  
17 Hardman.

18               BY MR. HARDMAN:

19          Q     -- as an authorization to install the time-out  
20 device?

21          A     No. Mr. Shibben had --

22          Q     Then you decided --

23          A     -- no knowledge --

24          Q     -- you decided that on your own that installing this  
25 time-out device was appropriate?

1           A     Yes, under the circumstances.

2           Q     So, you're not -- I -- well, do you know if the use  
3 of such a device complies with FCC rules or not?

4           MS. LADEN: Your Honor, I have a continuing objec-  
5 tion to the --

6           JUDGE CHACHKIN: I understand. You didn't object to  
7 any questions asked when questions were asked by RAM's counsel  
8 about all the things that were -- RAM was doing, all the  
9 testing they were doing, all the answers he gave, and now  
10 suddenly you object to the first question which questions that  
11 -- what RAM was doing. I don't understand it, frankly.

12          MS. LADEN: I --

13          JUDGE CHACHKIN: I've overruled the objection. I'll  
14 permit the examination.

15          MR. HARDMAN: Thank you.

16          BY MR. HARDMAN:

17          Q     It's your testimony -- or is it correct, I should  
18 say, that you decided that installing this time-out device was  
19 appropriate under the circumstances?

20          A     You being RAM collectively?

21          Q     Well, no. I'm asking you to --

22          A     No, no. I did not decide that myself.

23          Q     Who, who made that decision?

24          A     It was a collective decision of everyone at RAM  
25 Technologies of how to handle transmitting over top of the

1 harmful interference.

2 Q Is it your testimony that, that RAM is a democracy,  
3 this thing is put to a vote?

4 A Well, it wasn't really put to a vote. It was  
5 discussed.

6 Q It was discussed. But who decided?

7 A I don't really know.

8 Q Does Mr. Moyer own --

9 A Yes, he does.

10 Q -- RAM? Was he involved in the discussion?

11 A Yes, he was.

12 Q And wouldn't it be his determination to make as  
13 owner of the company that this device would be installed?

14 MR. CAPEHART: I'm sorry. Would you repeat -- Your  
15 Honor, I've been paged three times by my wife from home. My  
16 wife is an invalid and has multiple sclerosis. I, I need to  
17 call her and determine what the nature of the problem is.

18 MR. JOYCE: Can we have a recess, please?

19 MR. CAPEHART: I'm very sorry.

20 JUDGE CHACHKIN: Could, could you just answer this  
21 one question?

22 MR. CAPEHART: Yes.

23 JUDGE CHACHKIN: Then we'll have a recess.

24 MR. CAPEHART: I'm sorry. Ask it again? I, I was,  
25 I was distracted by this page. It's the third time it's



1 occurred.

2 BY MR. HARDMAN:

3 Q All right. My question was that, that Mr. Moyer, as  
4 the owner of RAM, would he not be the person who made that  
5 determination, the determination that the installing the time-  
6 out device was appropriate under the circumstances?

7 A Yes.

8 JUDGE CHACHKIN: All right. We'll take a ten-minute  
9 recess.

10 MR. CAPEHART: Thank you, Your Honor.

11 (Whereupon, a brief recess was taken from 2:45 p.m.  
12 until 2:55 p.m.)

13 JUDGE CHACHKIN: Mr. Hardman?

14 BY MR. HARDMAN:

15 Q Are you -- after --

16 A Thank you for your concern, Mr. Hardman. Yes,  
17 everything's fine.

18 Q Now, we were -- before the break, we were talking  
19 about the time-out device that RAM installed on the system  
20 that is referred to on page 2 of PRB Exhibit 3. Do you know,  
21 Mr. Capehart, whether such a device is -- complies with FCC  
22 rules or --

23 A It does not.

24 Q I'm sorry?

25 A It does not comply with FCC rules. Which exhibit